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PROVISIONAL AGENDA, ANNOTATIONS THERETO AND SCHEDULING OF MEETINGS OF THE THIRTIETH SESSION

Note by the Secretariat

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II. ANNOTATIONS TO THE PROVISIONAL AGENDA

Item 1. Opening of the session

The thirtieth session will be held at the Vienna International Centre from 12 to 30 May 1997. The session will be opened on Monday, 12 May 1997, at 10:00 a.m. The Commission is composed of the following member States: Algeria, Argentina, Australia, Austria, Botswana, Brazil, Bulgaria, Cameroon, Chile, China, Ecuador, Egypt, Finland, France, Germany, Hungary, India, Iran (Islamic Republic of), Italy, Japan, Kenya, Mexico, Nigeria, Poland, Russian Federation, Saudi Arabia, Singapore, Slovakia, Spain, Sudan, Thailand, Uganda, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania, United States of America, and Uruguay. In addition, States not members of the Commission may attend as observers and participate in the deliberations.

Item 2. Election of officers

Pursuant to a decision taken by the Commission at its first session, the Commission elects, for each session, a Chairman, three Vice-Chairmen and a Rapporteur.

Item 3. Adoption of the agenda

It is suggested that all items be considered in plenary.

Item 4. Cross-border insolvency

Pursuant to a decision by the Commission at its twenty-eighth session in 1995 (report: A/50/17, paras. 382-393), the Working Group on Insolvency Law undertook work to prepare uniform rules on judicial cooperation in cross-border insolvency cases, on court access for foreign insolvency representatives and on recognition of foreign insolvency proceedings. The Working Group held four sessions on the subject: the eighteenth session (report: A/CN.9/419); nineteenth session (report: A/CN.9/422); twentieth session (report: A/CN.9/433); twenty-first session (report: A/CN.9/435). At its twentieth session, the Working Group decided that the uniform rules should be cast in the form of model legislation, which until then had tentatively been entitled the draft UNCITRAL Model Legislative Provisions on Cross-Border Insolvency. In so deciding, the Working Group considered that this decision would not exclude the possibility of undertaking work towards model treaty provisions or a convention on judicial cooperation in cross-border insolvency, if the Commission at a later stage so decided (A/CN.9/433, paras. 16-20). At its twenty-first session (New York, 20-31 January 1997), the Working Group noted that it would have wished to have some more time available for completing its review of the draft. Yet it decided, in line with the hope expressed by the Commission at its twenty-ninth session (A/51/17, para. 237), to submit the draft Model Legislative Provisions to the Commission for consideration and completion at its current session (A/CN.9/435, para. 16).

Item 5. Privately-financed infrastructure projects

This item was previously referred to as "build-operate-transfer (BOT) projects".

At its twenty-ninth session (1996), the Commission considered a report prepared by the Secretariat on possible future work on BOT which contained information on work being undertaken by other organizations in that field, as well as an outline of issues covered by national laws concerning those arrangements (A/CN.9/424). After consideration of that report the Commission decided to prepare a legislative guide on those types of projects(A/51/17, paras. 225-230).

The Commission will have before it a table of contents setting out the topics proposed to be covered by the legislative guide, which are followed by annotations in some detail concerning the issues suggested to be discussed therein (A/CN.9/438). The Commission will also have before it initial drafts of chapter I, "Scope, purpose and terminology of the Guide" (A/CN.9/438/Add.1), chapter II, "Parties and phases of privately-financed infrastructure projects" (A/CN.9/438/Add.2) and chapter V, "Preparatory measures" (A/CN.9/438/Add.3).

Item 6. Electronic commerce

After adopting the UNCITRAL Model Law on Electronic Commerce, the Commission, at its twenty-ninth session (1996), agreed that placing the issue of digital signatures and certification authorities on the agenda of the Commission was appropriate, provided that it was used as an opportunity to deal with the other topics suggested by the Working Group on Electronic Data Interchange for future work on electronic commerce, i.e., issues of registries, incorporation by reference, information service providers and review of existing international conventions (see A/CN.9/421, paras. 109-119). It was also agreed as to a more precise mandate for the Working Group that the uniform rules to be prepared should deal with such issues as: the legal basis supporting certification processes, including emerging digital authentication and certification technology; the applicability of the certification process; the allocation of risk and liabilities of users, providers and third parties in the context of the use of certification techniques; the specific issues of certification through the use of registries; and incorporation by reference.

The Commission requested the Secretariat to prepare a background study of the issues of digital signatures and service providers, based on an analysis of laws currently being prepared in various countries. On the basis of that study, the Working Group should examine the desirability and feasibility of preparing uniform rules on the above-mentioned topics. It was agreed that work to be carried out by the Working Group at its thirty-first session could involve the preparation of draft rules on certain aspects of the above-mentioned topics. The Working Group was requested to provide the Commission with sufficient elements for an informed decision to be made as to the scope of the uniform rules to be prepared. In view of the broad scope of activities covered by the Model Law on Electronic Commerce and by possible future work in the area of electronic commerce, it was decided that the Working Group on Electronic Data Interchange would be renamed "Working Group on Electronic Commerce". The Commission will have before it the report of the Working Group on the work of its thirty-first session (A/CN.9/437).

Item 7. Receivables financing: assignment of receivables

The Commission, at its twenty-eighth session (1995), decided that work on a uniform law on assignment in receivables financing should be undertaken (A/50/17, paras. 374-381). The Working Group on International Contract Practices continued its work at its twenty-fifth and twenty-sixth sessions, which were held respectively from 8 to 19 July 1996 in New York and from 11 to 22 November 1996 at Vienna, by reviewing revised and newly revised articles of a draft Convention on Assignment in Receivables Financing prepared by the Secretariat (documents A/CN.9/WG.II/WP.87 and A/CN.9/WG.II/WP.89). The Commission will have before it the reports of the Working Group (A/CN.9/432 and A/CN.9/434).

Item 8. Monitoring of implementation of 1958 New York Convention

The Commission, at its twenty-eighth session in 1995, approved the project, undertaken jointly with Committee D of the International Bar Association, aimed at monitoring the legislative implementation of the Convention on the Recognition and Enforcement of Foreign Arbitral Awards (New York, 1958) (reports: A/50/17, paras. 401-404, and A/51/17, paras. 238-243). Stressing that the purpose of the project was not to monitor individual court decisions applying the Convention, the Commission called upon the States Parties to the Convention to send to the Secretariat the laws dealing with the recognition and enforcement of foreign arbitral awards. In November 1995, the Secretariat sent to the States Parties a questionnaire relating to the legal regime governing the recognition and enforcement of foreign awards, prepared in cooperation with Committee D of the International Bar Association. Subsequent to that date, the Secretariat has repeated its request to the States Parties for the relevant information. As of 5 February 1997, the Secretariat has received 38 replies to the questionnaire. The Secretariat intends to present orally a progress report to the Commission.

Item 9. Case law on UNCITRAL texts (CLOUT)

Based on a decision by the Commission at its twenty-first session, in 1988 (A/43/17, paras. 98-109), the Secretariat established a system for collecting, and disseminating information on, court decisions and arbitral awards relating to normative texts emanating from the work of the Commission. The system relies on National Correspondents designated by the States adhering to an UNCITRAL Convention or having enacted legislation based on an UNCITRAL Model Law. The features of that system are explained in the User Guide (A/CN.9/SER.C/GUIDE/1). Abstracts of court decisions relating to the United Nations Sales Convention, the Hamburg Rules and the UNCITRAL Model Arbitration Law are contained in documents A/CN.9/SER.C/ABSTRACTS/1 to 12. A thesaurus of the Sales Convention and an index of cases applying the Sales Convention are contained in documents A/CN.9/SER.C/INDEX/1 and A/CN.9/SER.C/INDEX/2, respectively.

Item 10. Training and assistance

The Commission will have before it a note by the Secretariat on this subject (A/CN.9/440).

Item 11. Status and promotion of UNCITRAL legal texts

The Commission will have before it a note by the Secretariat (A/CN.9/441) concerning the present status of the Convention on the Limitation Period in the International Sale of Goods (New York, 1974); United Nations Convention on the Carriage of Goods by Sea, 1978 (Hamburg); United Nations Convention on Contracts for the International Sale of Goods (Vienna, 1980); Protocol amending the Convention on the Limitation Period in the International Sale of Goods (Vienna, 1980); United Nations Convention on International Bills of Exchange and International Promissory Notes (New York, 1988); United Nations Convention on the Liability of Operators of Transport Terminals in International Trade (Vienna, 1991); United Nations Convention on Independent Guarantees and Stand-by Letters of Credit (New York, 1995); Convention on the Recognition and Enforcement of Foreign Arbitral Awards (New York, 1958); UNCITRAL Model Law on International Commercial Arbitration and UNCITRAL Model Law on Procurement of Goods, Construction and Services.

Item 12. General Assembly resolutions on the work of the Commission

The Commission may wish to take note of General Assembly resolutions A/RES/51/161 of 16 December 1997 on the report of the United Nations Commission on International Trade Law on the work of its twenty-ninth session and A/RES/51/162 of 16 December 1997 on the UNCITRAL Model Law on Electronic Commerce, with Guide to Enactment. Copies of the resolutions and the report of the Sixth Committee (A/51/628) will be made available at the session.

Item 13. Other business

The Commission will have before it a bibliography of recent writings related to the work of the Commission (A/CN.9/441) and an explanatory note on the United Nations Convention on Independent Guarantees and Stand-by Letters of Credit (A/CN.9/431).

The Secretariat will present an oral report about the Fourth Annual Willem C. Vis International Commercial Arbitration Moot competition.

Item 14. Date and place of future meetings

(a) Thirty-first session

The thirty-first session will be held at New York. Arrangements have been made for the session to be held from 1 to 19 June 1998.

(b) Session of Working Groups

(i) Working Group on Electronic Commerce

The thirty-second session of the Working Group will be held at Vienna; arrangements have been made for the session to be held from 22 September to 3 October 1997. Information regarding dates available for a session in 1998 will be supplied by the Secretariat.

(ii) Working Group on International Contract Practices

The twenty-seventh session of the Working Group will be held at New York; arrangements have been made for the session to be held from 23 June to 3 July 1997 and the twenty-eighth session at Vienna from 8 to 19 December 1997.

(iii) Working Group on Insolvency Law

The twenty-second session of the Working Group will be held at Vienna. Should the Commission consider a session in 1997 necessary, arrangements have been made for it to be held from 20 to 31 October 1997.

Item 15. Adoption of the report of the Commission

The General Assembly, in paragraph 10 of resolution 2205 (XXI), decided that the Commission should submit an annual report to the General Assembly, and that the report should be submitted simultaneously to the United Nations Conference on Trade and Development for comments. Under a decision of the Sixth Committee (A/7408, para. 3), the report of the Commission is introduced to the General Assembly by the Chairman of the Commission or by another officer of the Bureau designated by the Chairman.

III. SCHEDULING OF MEETINGS

There will be 12 working days available for consideration of the agenda items at the session. The Secretariat would recommend that the agenda items be taken up in numerical order and that the Commission anticipate devoting the first eight days, i.e. Monday, 12 May to Thursday, 22 May (after items 1 to 3) to agenda item 4 (Monday, 19 May, is an official United Nations holiday); the next one and a half days, i.e. Friday, 23 May, and Monday, 26 May, to item 5. The afternoon of Monday, 26 May, is reserved for a commemorative session under the theme "UNCITRAL's next thirty years" and a reception by the Austrian Minister of Justice at Palais Trautson. Items 6 to 14 would then be considered on Tuesday, 27 May and Wednesday, 28 May. No meeting will be scheduled for Thursday, 29 May, to enable the Secretariat to prepare the draft report. Friday, 30 May, will be reserved for the adoption of the report.

Meeting hours will be from 9.30 to 12.30 and 14.00 to 17.00, except on Monday, 12 May, when the meeting will commence at 10.00.

IV. MEETING OF NATIONAL CORRESPONDENTS

Since the twenty-second session of the Commission it has become customary to hold, in conjunction with Commission sessions, meetings of the National Correspondents for the case collection system referred to under agenda item 9. It is planned that the National Correspondents will meet on Thursday, 29 May, when no meeting of the Commission has been scheduled, and possibly on Friday, 30 May, after the adoption of the report by the Commission. Further information concerning the scheduling of the meeting of National Correspondents will be communicated during the session.

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